

CHAPTER 363

DEPARTMENT OF HUMAN RIGHTS

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363.01 DEFINITIONS.

[For text of subds 1 to 23, see M.S.1984]

Subd. 24. **Local commission.** "Local commission" means an agency of a city, county, or group of counties created pursuant to law, resolution of a county board, city charter, or municipal ordinance for the purpose of dealing with discrimination on the basis of race, color, creed, religion, national origin, sex, age, disability, marital status, status with regard to public assistance, or familial status.

[For text of subds 25 to 34, see M.S.1984]

Subd. 35. **Human rights investigative data.** "Human rights investigative data" means written documents issued or gathered by the department for the purpose of investigating and prosecuting alleged or suspected discrimination.

Subd. 36. **Confidential, private, and public data on individuals and protected nonpublic data not on individuals.** "Confidential," "private," "public data on individuals," "protected nonpublic data not on individuals," and any other terms concerning the availability of human rights investigative data have the meanings given them by section 13.02 of the Minnesota government data practices act.

Subd. 37. **Closed case file.** "Closed case file" means a file containing human rights investigative data in which an order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, and the time for any reconsideration of or appeal from the order or decision has expired.

Subd. 38. **Open case file.** "Open case file" means a file containing human rights investigative data in which no order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, or a file in which an order or other decision has been issued but the time for any reconsideration or appeal of the order or decision has either not yet expired or the reconsideration or appeal is then pending.

History: *1Sp1985 c 13 s 320-324*

363.031 LIMITATIONS ON WAIVER.

Subdivision 1. **Prospective waiver prohibited.** Any provision, whether oral or written, of a lease, contract, or other agreement or instrument, which purports to be a waiver by an individual of any right or remedy provided in this chapter is contrary to public policy and void if the waiver or release purports to waive claims arising out of acts or practices which occur after the execution of the waiver or release.

Subd. 2. **Rescission of waiver.** A waiver or release of rights or remedies secured by this chapter which purports to apply to claims arising out of acts or practices prior to, or concurrent with, the execution of the waiver or release may be rescinded within 15 calendar days of its execution, except that a waiver or release given in settlement of a claim filed with the department or with another administra-

tive agency or judicial body is valid and final upon execution. A waiving or releasing party shall be informed in writing of the right to rescind the waiver or release. To be effective, the rescission must be in writing and delivered to the waived or released party either by hand or mail within the 15-day period. If delivered by mail, the rescission must be:

- (1) postmarked within the 15-day period;
- (2) properly addressed to the waived or released party; and
- (3) sent by certified mail return receipt requested.

History: 1985 c 175 s 1

363.05 DUTIES OF COMMISSIONER.

[For text of subd 1, see M.S.1984]

Subd. 2. **Enforcement and effect of subpoena.** (a) Disobedience of a subpoena issued by the commissioner pursuant to subdivision 1 shall be punishable in like manner as a contempt of the district court in proceedings instituted upon application of the commissioner made to the district court of the county where the alleged unfair discriminatory practice in connection with a charge made by a charging party or a complaint filed by the commissioner has occurred or where the respondent resides or has his principal place of business.

(b) It is not a violation of rights conferred by chapter 13 or any other statute related to the confidentiality of government data for an agency to provide data or information under a subpoena issued by the commissioner under this section.

History: 1Sp1985 c 13 s 325

363.06 GRIEVANCES.

[For text of subds 1 to 6, see M.S.1984]

Subd. 8. **Access to documents.** The commissioner shall provide the respondent with a copy of the charge. The charging party or his representative may review the answer of the respondent to the charge submitted pursuant to subdivision 1. The department shall make these documents available to the charging party.

History: 1Sp1985 c 13 s 326

363.061 ACCESS TO CASE FILES.

Subdivision 1. **General provisions.** Notwithstanding section 13.39, and except as provided in section 363.06, subdivisions 6 and 8, the availability of human rights investigative data to persons other than department employees is governed by this section.

Subd. 2. **Access to open files.** (a) Human rights investigative data on an individual, with the exception of the name and address of the charging party and respondent, factual basis of the allegations, and the statute under which the action is brought, contained in an open case file is classified as confidential. The name and address of the charging party and respondent, factual basis of the allegations, and the statute under which the action is brought are classified as public data unless the commissioner determines that release of the data would be detrimental to the investigative and enforcement process.

(b) Human rights investigative data not on an individual contained in an open case file is classified as protected nonpublic data.

(c) Notwithstanding this subdivision, the commissioner may make human rights investigative data contained in an open case file accessible to a person, government agency, or the public if access will aid the investigative and enforcement process.

Subd. 3. **Access to closed files.** (a) Human rights investigative data on an individual contained in a closed case file is classified as private, with the exception of the following documents: the name and address of the charging party and respondent, factual basis of the allegations, and the statute under which the action is brought, the part of the summary of the investigation that does not contain identifying data on an individual other than the complainant or respondent, and the commissioner's memorandum determining whether probable cause has been shown.

(b) Human rights investigative data not on an individual contained in a closed case file is classified as nonpublic.

(c) Notwithstanding this subdivision, the commissioner may make human rights investigative data contained in a closed case file inaccessible to the charging party or the respondent in order to protect medical or other security interests of the parties or third persons.

History: *1Sp1985 c 13 s 327*

363.071 HEARINGS.

Subdivision 1. **Conduct of hearings.** A complaint issued by the commissioner shall be heard as a contested case, except that the report of the hearing examiner shall be binding on all parties to the proceeding and if appropriate shall be implemented by an order as provided for in subdivision 2. The hearing shall be conducted at a place designated by the commissioner, within the county where the unfair discriminatory practice occurred or where the respondent resides or has his principal place of business. The hearing shall be conducted in accordance with sections 14.57 to 14.62, and is subject to appeal in accordance with sections 14.63 to 14.68.

[For text of subds 1a to 6, see M.S.1984]

History: *1985 c 248 s 56*

363.114 JURISDICTION OF COUNTY COMMISSIONS.

If a county or group of counties creates a local commission, the commission does not have jurisdiction over any part of the county that is within the jurisdiction of a local commission created by city charter or municipal ordinance.

History: *1Sp1985 c 13 s 328*

363.116 TRANSFER TO COMMISSIONER.

A local commission may refer a matter under its jurisdiction to the commissioner.

The charging party has the option of filing a charge either with a local commission or the department. Notwithstanding the provisions of any ordinance or resolution to the contrary, a charge may be filed with a local commission within 300 days after the occurrence of the practice. The exercise of such choice in filing a charge with one agency shall preclude the option of filing the same charge with the other agency. At the time a charge comes to the attention of a local agency, the agency or its representative shall inform the charging party of this option, and of his rights under Laws 1967, chapter 897.

The term "local commission" as used in this section has the same meaning given the term in section 363.115.

History: *1Sp1985 c 13 s 329*